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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of the
**GOLDEN STATE WATER COMPANY
(U133W)** for an order authorizing it to
increase rates for water service by \$2,812,100
or 32.61% in 2008; by -\$178,700 or -1.51% in
2009; and by \$109,900 or 0.92% in 2010 in its
Arden Cordova Customer Service Area.

Application 07-01-009
(Filed January 5, 2007)

And Related Matters.

Application 07-01-010
Application 07-01-011
Application 07-01-012
Application 07-01-013
Application 07-01-014
Application 07-01-015
(Filed January 5, 2007)

**REPLY OF THE DIVISION OF RATEPAYER ADVOCATES
TO THE GOLDEN STATE WATER CO.'S COMMENTS
REGARDING THE PROPOSED DECISION**

I. INTRODUCTION

Pursuant to Rule 14.3 of the Commission Rules of Practice and Procedure,¹ the Division of Ratepayer Advocates (DRA) replies to the Golden State Water Co.'s (GSWC) comments on the proposed decision (PD). On January 8, 2008, the assigned Administrative Law Judge (ALJ) e-mailed the Parties that the deadline for filing their Reply would be January 14, 2008.

II. BACKGROUND

GSWC's comments address only five issues in the PD. Generally, GSWC fails to make specific references to the record to support its claims of errors in the PD; merely

¹ The term "Rule" means a provision of the Commission Rules of Practice and Procedure,

reargues positions taken in its briefs; or when proposing specific changes to the PD, does not include supporting findings of fact and conclusions of law. Further, GSWC's comments do not comply with Rule 14.3, subsection (b), which requires a subject index listing the recommended changes to the proposed or alternate decision, and a table of authorities and an appendix setting forth proposed findings of fact and conclusions of law. Therefore, the Commission should give little if any weight to the GSWC comments.

III. ARGUMENTS AND AUTHORITIES

A. GSWC's comments challenging the PD's finding that the contingency rate should be 5% based on a stipulation between the parties in D. 07-11-037, is without legal foundation; otherwise, GSWC fails to carry its burden of proof when rearguing its briefs that Exhibit GSWC(all)-22 supports a contingency rate of 10%.

GSWC claims that because the Commission adopted a stipulation in D. 07-11-037 providing for a contingency rate of 10%, the PD errs in deciding that in this proceeding a contingency rate of 5% is just and reasonable.² Thus, GSWC is claiming that a stipulation between itself and DRA is a binding precedent in this case, and therefore the PD errs by not adopting the same contingency rate that was negotiated by the Parties and adopted by the Commission in D. 07-11-037.

Interestingly, GSWC does not cite the record or legal authorities to support its claim that an adopted stipulation in a prior proceeding is binding on the PD. To the contrary, Rule 12.5 states,

Commission adoption of a settlement is binding on all parties to the proceeding in which the settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding any principle or issue in the proceeding or in any future proceeding.

GSWC conspicuously omits mentioning Rule 12.5. Moreover, GSWC makes no effort to distinguish Rule 12.5 with citations to the record or to legal authorities.

² See *GSWC Cmmts* at 3–4 (claiming PD mistakenly cited 5%).

Therefore, GSWC has failed to carry its burden of proving that the PD erred in holding the contingency rate of 5% is just and reasonable.

As for GSWC's alternate claim that the contingency rate of 10% is supported by "GSWC Gisler, Ex. GSW(all)-22 at pp. 9-10,"³ this is a reiteration of GSWC's briefs, which represents a violation of Rule 14.3(c). GSWC does not address DRA's showing that Exhibit GSWC(all)-22 is not supported by any evidence and does not include any citations explaining specifically how the PD erred.

Therefore, the Commission should give little if any weight to GSWC claims that the PD erred when deciding the just and reasonable contingency rate is 5%.

B. GSWC has failed to justify with record citations or pertinent legal authorities its request to have the PD's Ordering Paragraph 5 withdrawn.

GSWC claims that the PD errs by finding that "Golden State projected its labor expenses by starting with actual and vacant positions in certain CSAs" and consequently, **"we direct Golden State to modify its projections** consistent with our finding in D.05-07-044." [Emphasis in text.] GSWC further claims that D. 05-07-044 is "moot" and applicable only to a future GRC.

However, GSWC does not explain its use of the term "moot" or support its request to withdraw Ordering Paragraph 5 by citation to any authority. Moreover, GSWC does not provide any legal authorities supporting its view that D. 05-07-044 is not applicable to this proceeding and only applicable to future GRCs. Contrary to Rule 14.3(c), GSWC did not append any proposed findings of fact and conclusions of law to support its proposal. Therefore, the Commission should disregard these GSWC's comments because they do not to comply with Rule 14.3(c) and are unpersuasive. GSWC is seeking to circumvent a Commission order without any justification.

³ *Id.* at 3

C. The PD does not have to tell the Water Division how to do its job, when the Water Division's review of an advice letter is clearly established by pertinent General Orders

GSWC requests that the Commission modify Ordering Paragraph 9 "to ensure that Water Division is provided with sufficient authority to act upon GSWC's proposal in the subject advice letter." The Commission should give this request little weight. GSWC has failed to prove with any citations to the record or a statement of pertinent legal authorities that the Water does not have "sufficient authority" to act on GSWC's prospective advice letter. The Water Division derives its reviewing authority from pertinent General Orders (e.g., 96-B) and not from any Commission decision. What GSWC actually seeks is to constrain the Water Division to render a proposed resolution as GSWC sees fit. The Commission should not do GSWC's bidding and allow the Water Division to fulfill its role as already independently established by G.O. 96-A.

IV. CONCLUSION

Regarding the other parts of the GSWC comments that are not addressed above, DRA neither accepts nor denies them. DRA reserves its right to contest these issues further in an application for rehearing, if necessary.

Respectfully submitted,

/s/ CLEVELAND LEE

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January 14, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of “**REPLY OF THE
DIVISION OF RATEPAYER ADVOCATES TO THE GOLDEN STATE WATER
CO.s COMMENTS REGARDING THE PROPOSED DECISION**” in **A.07-01-009**
et al by using the following service:

[X] **E-Mail Service:** sending the entire document as an attachment to all known
parties of record who provided electronic mail addresses.

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known parties of record who did not provide electronic mail addresses.

Executed on January 14, 2008 at San Francisco, California.

/s/ HALINA MARCINKOWSKI

Halina Marcinkowski

N O T I C E

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